

HB0350S01 compared with HB0350

~~deleted text~~ shows text that was in HB0350 but was deleted in HB0350S01.

inserted text shows text that was not in HB0350 but was inserted into HB0350S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Steve Waldrup proposes the following substitute bill:

IMPAIRED DRIVING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrup

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions and penalties related to a person's operation of a motor vehicle with a measurable controlled substance in the person's body.

Highlighted Provisions:

This bill:

- ▶ provides that the offense of a person's operation of a vehicle with a measurable controlled substance in the person's body does not include the presence of only inactive cannabis metabolite in the person's body;
- ▶ amends provisions associated with a person's operation of a motor vehicle with a measurable controlled substance in the person's body by making the offense a third degree felony if the person has two or more related convictions within 10 years;
- ▶ amends penalties associated with the conviction of a person's operation of a motor

HB0350S01 compared with HB0350

vehicle with a measurable controlled substance in the person's body; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-517, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

53-3-223, as last amended by Laws of Utah 2019, Chapter 77

53-3-231, as last amended by Laws of Utah 2019, Chapter 77

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **41-6a-517** is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

- (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- (b) "Practitioner" means the same as that term is defined in Section 58-37-2.
- (c) "Prescribe" means the same as that term is defined in Section 58-37-2.
- (d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) (a) [En] Except as provided in Subsection (2)(b), in cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(b) Subsection (2)(a) does not apply to a person that has 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

- (a) involuntarily ingested by the accused;

HB0350S01 compared with HB0350

(b) prescribed by a practitioner for use by the accused;

(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(d) otherwise legally ingested.

(4) (a) A person [~~convicted of a violation of~~] who violates Subsection (2) for the first or second time is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(c) A person who violates Subsection (2) is guilty of a class A misdemeanor if the person:

(i) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(ii) had a passenger under 16 years old in the vehicle at the time of the offense;

(iii) was 21 years old or older and had a passenger under 18 years old in the vehicle at the time of the offense; or

(iv) at the time of the violation of Subsection (2), also violated Section 41-6a-712 or 41-6a-714.

(d) A person who violates Subsection (2) is guilty of a third degree felony if:

(i) the person has also inflicted serious bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner; or

(ii) the person is also guilty of automobile homicide under Section 76-5-207.

(5) A person who violates Subsection (2) is guilty of a third degree felony if:

(a) the person has two or more prior convictions as defined in Subsection 41-6a-501(2), each of which is within 10 years of:

(i) the current conviction under Subsection (2); or

(ii) the commission of the offense upon which the current conviction is based; or

(b) the conviction under ~~Section 41-6a-502~~ Subsection (2) is at any time after a conviction of:

(i) automobile homicide under Section 76-5-207 that is committed after July 1, 2001;

(ii) a felony violation of Section 41-6a-502, Subsection (2), or a statute previously in

HB0350S01 compared with HB0350

effect in this state that would constitute a violation of Section 41-6a-502 or Subsection (2) that is committed after July 1, 2001; or

(iii) any conviction described in Subsection (~~(2)~~ 5)(b)(i) or (ii) for which judgment of conviction is reduced under Section 76-3-402.

~~[(5)]~~ (6) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

~~[(6)]~~ (7) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

~~[(7)]~~ (8) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

~~[(8)]~~ (9) The Driver License Division shall, if the person is under 19 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

HB0350S01 compared with HB0350

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

~~[(9)]~~ (10) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

~~[(10)]~~ (11) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

~~[(11)]~~ (12) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection ~~[(7)]~~ (8)(a) or ~~[(8)]~~ (9)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection ~~[(11)]~~ (12)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection ~~[(11)]~~ (12)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection ~~[(11)]~~ (12)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person

HB0350S01 compared with HB0350

was involved as the operator of the vehicle during the suspension period imposed under Subsection ~~[(7)]~~ (8)(a) or ~~[(8)]~~ (9)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection ~~[(7)]~~ (8)(a) or ~~[(8)]~~ (9)(a); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection ~~[(7)]~~ (8)(a) or ~~[(8)]~~ (9)(a).

~~[(12)]~~ (13) If the court shortens a person's license suspension period in accordance with the requirements of Subsection ~~[(11)]~~ (12), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection ~~[(7)]~~ (8)(a) or ~~[(8)]~~ (9)(a) to the Driver License Division.

~~[(13)]~~ (14) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

~~[(14)]~~ (15) ~~[(a)]~~ The court:

~~[(b)]~~ (a) ~~[(i)]~~ shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

~~[(b)]~~ (b) ~~[(ii)]~~ may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

~~[(b)]~~ The court shall:

~~[(i)]~~ impose a jail sentence of not less than 48 consecutive hours; or

HB0350S01 compared with HB0350

~~_____ (ii) require the individual to work in a compensatory-service work program for not less than 48 hours.~~

~~_____ (16) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based, the court shall:~~

~~_____ (a) impose a jail sentence of not less than 240 hours; or~~

~~_____ (b) impose a jail sentence of not less than 120 hours in addition to home confinement of not fewer than 720 consecutive hours through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506.~~

~~_____ (17) Under Subsection (15), if the court suspends the execution of a prison sentence and places the defendant on probation, the court shall impose:~~

~~_____ (a) a fine of not less than \$1,500; and~~

~~_____ (b) a jail sentence of not less than 1,500 hours.~~

† ~~[(15)]~~ ~~(~~18~~16)~~ (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection ~~[(6)]~~ (7) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection ~~[(15)]~~ ~~(~~18~~16)~~, the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection ~~[(15)]~~ ~~(~~18~~16)~~(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

Section 2. Section **53-3-223** is amended to read:

53-3-223. Chemical test for driving under the influence -- Temporary license -- Hearing and decision -- Suspension and fee -- Judicial review.

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug,

HB0350S01 compared with HB0350

alcohol, or combination of a drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

- (a) a copy of the citation issued for the offense;
- (b) a signed report in a manner specified by the division indicating the chemical test results, if any; and
- (c) any other basis for the peace officer's determination that the person has violated Section 41-6a-502 or 41-6a-517.

(6) (a) Upon request in a manner specified by the division, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within 10 calendar days of the day on which notice is provided under

HB0350S01 compared with HB0350

Subsection (5).

(b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517;

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or

(B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years of age or older at the time of arrest and the arrest was made on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

(B) two years beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

HB0350S01 compared with HB0350

(ii) if the person is under 21 years of age at the time of arrest and the arrest was made on or after May 14, 2013:

(A) suspend the person's license or permit to operate a motor vehicle:

(I) for a period of six months, beginning on the 45th day after the date of arrest for a first suspension; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(B) deny the person's application for a license or learner's permit:

(I) for a period of six months for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

(b) The division shall deny or suspend a person's license for the denial and suspension periods in effect:

(i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if:

(A) the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest; and

(B) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for an offense that was committed prior to May 14, 2013.

(c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 45th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section

HB0350S01 compared with HB0350

41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period.

(ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b), the division shall reinstate a person's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's conviction of impaired driving under Section 41-6a-502.5 if:

(A) the written verification is received prior to completion of the suspension period; and

(B) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court as defined in Section 41-6a-501.

(iii) If a person's license is reinstated under this Subsection (7)(c), the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

(iv) The driver license reinstatements authorized under this Subsection (7)(c) only apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

(8) (a) Notwithstanding the provisions in Subsection (7)(b)(iii), the division shall shorten a person's two-year license suspension period that is currently in effect to a six-month suspension period if:

(i) the driver was under the age of 19 at the time of arrest;

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517[(+)](12);

(C) a court order shortening the driver license suspension for a violation of Section 32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section

HB0350S01 compared with HB0350

41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable written documentation to shorten a person's driver license suspension period under Subsection (8)(a)(iii)(G).

(c) If a person's license sanction is shortened under this Subsection (8), the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

(9) (a) The division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

(10) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall reinstate a person's license before completion of the suspension period imposed under Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If a person's license is reinstated under Subsection (10)(a), the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

Section 3. Section **53-3-231** is amended to read:

53-3-231. Person under 21 may not operate a vehicle or motorboat with detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing and decision -- Suspension of license or operating privilege -- Fees -- Judicial review -- Referral to local substance abuse authority or program.

(1) (a) As used in this section:

(i) "Local substance abuse authority" has the same meaning as provided in Section

HB0350S01 compared with HB0350

62A-15-102.

(ii) "Substance abuse program" means any substance abuse program licensed by the Department of Human Services or the Department of Health and approved by the local substance abuse authority.

(b) Calculations of blood, breath, or urine alcohol concentration under this section shall be made in accordance with the procedures in Subsection 41-6a-502(1).

(2) (a) A person younger than 21 years of age may not operate or be in actual physical control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol concentration in the person's body as shown by a chemical test.

(b) A person who violates Subsection (2)(a), in addition to any other applicable penalties arising out of the incident, shall have the person's operator license denied or suspended as provided in Subsection (7).

(3) (a) When a peace officer has reasonable grounds to believe that a person may be violating or has violated Subsection (2), the peace officer may, in connection with arresting the person for a violation of Section 32B-4-409, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Subsection (2)(a) will result in denial or suspension of the person's license to operate a motor vehicle or a refusal to issue a license.

(c) If the person submits to a chemical test and the test results indicate a blood, breath, or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the arrest, give notice of the division's intention to deny or suspend the person's license to operate a vehicle or refusal to issue a license under this section.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall supply to the operator, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

(a) a copy of the citation issued for the offense;

HB0350S01 compared with HB0350

(b) a signed report in a manner specified by the Driver License Division indicating the chemical test results, if any; and

(c) any other basis for a peace officer's determination that the person has violated Subsection (2).

(6) (a) (i) Upon request in a manner specified by the division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest under Section 32B-4-409.

(ii) The request shall be made within 10 calendar days of the day on which notice is provided.

(b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was operating a motor vehicle or motorboat in violation of Subsection (2)(a);

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) In connection with a hearing, the division or its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and records as defined in Section 46-4-102.

(e) One or more members of the division may conduct the hearing.

(f) Any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

(7) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a), if the person fails to appear before the division as required in the notice, or if the person does not request a hearing under this section, the division shall for a person under 21 years of age on the date of arrest:

HB0350S01 compared with HB0350

(a) deny the person's license until the person complies with Subsection (11)(b)(i) but for a period of not less than six months beginning on the 45th day after the date of arrest for a first offense under Subsection (2)(a) committed on or after May 14, 2013;

(b) suspend the person's license until the person complies with Subsection (11)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension;

(c) deny the person's application for a license or learner's permit until the person complies with Subsection (11)(b)(i) but for a period of not less than six months if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a first offense under Subsection (2)(a) committed on or after July 1, 2009;

(d) deny the person's application for a license or learner's permit until the person complies with Subsection (11)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

(e) deny or suspend a person's license for the denial and suspension periods in effect:

(i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest and the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed prior to May 14, 2013.

(8) (a) Notwithstanding the provisions in Subsection (7)(e)(iii), the division shall shorten a person's one-year license suspension or denial period that is currently in effect to a six-month suspension or denial period if:

(i) the driver was under the age of 19 at the time of arrest;

HB0350S01 compared with HB0350

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension or denial under Subsection (7)(e)(iii) was based on the same occurrence upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517~~[(+)]~~(12);

(C) a court order shortening the driver license suspension for a violation of Section 32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable documentation to shorten a person's driver license suspension or denial period under this Subsection (8).

(c) If a person's license sanction is shortened under this Subsection (8), the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

(9) (a) (i) Following denial or suspension the division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(ii) This fee shall be canceled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose operator license has been denied, suspended, or postponed by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

HB0350S01 compared with HB0350

(10) After reinstatement of an operator license for a first offense under this section, a report authorized under Section 53-3-104 may not contain evidence of the denial or suspension of the person's operator license under this section if the person has not been convicted of any other offense for which the denial or suspension may be extended.

(11) (a) In addition to the penalties in Subsection (9), a person who violates Subsection (2)(a) shall:

(i) obtain an assessment and recommendation for appropriate action from a substance abuse program, but any associated costs shall be the person's responsibility; or

(ii) be referred by the division to the local substance abuse authority for an assessment and recommendation for appropriate action.

(b) (i) Reinstatement of the person's operator license or the right to obtain an operator license within five years of the effective date of the license sanction under Subsection (7) is contingent upon successful completion of the action recommended by the local substance abuse authority or the substance abuse program.

(ii) The local substance abuse authority's or the substance abuse program's recommended action shall be determined by an assessment of the person's alcohol abuse and may include:

(A) a targeted education and prevention program;

(B) an early intervention program; or

(C) a substance abuse treatment program.

(iii) Successful completion of the recommended action shall be determined by standards established by the Division of Substance Abuse and Mental Health.

(c) At the conclusion of the penalty period imposed under Subsection (2), the local substance abuse authority or the substance abuse program shall notify the division of the person's status regarding completion of the recommended action.

(d) The local substance abuse authorities and the substance abuse programs shall cooperate with the division in:

(i) conducting the assessments;

(ii) making appropriate recommendations for action; and

(iii) notifying the division about the person's status regarding completion of the recommended action.

HB0350S01 compared with HB0350

(e) (i) The local substance abuse authority is responsible for the cost of the assessment of the person's alcohol abuse, if the assessment is conducted by the local substance abuse authority.

(ii) The local substance abuse authority or a substance abuse program selected by a person is responsible for:

(A) conducting an assessment of the person's alcohol abuse; and

(B) for making a referral to an appropriate program on the basis of the findings of the assessment.

(iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees associated with the recommended program to which the person selected or is referred.

(B) The costs and fees under Subsection (11)(e)(iii)(A) shall be based on a sliding scale consistent with the local substance abuse authority's policies and practices regarding fees for services or determined by the substance abuse program.